

ORDINANCE NO. 2477

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HEAVY EQUIPMENT STORAGE, TRUCKING AND CONSTRUCTION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.983 ACRES, MORE OR LESS

WHEREAS, on the 20th day of May 2016, a conditional use application, denominated Conditional Use No. 2060 was filed on behalf of Shelby Trucking and Construction Company, Inc.; and

WHEREAS, on the 27th day of October 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2060 be approved with conditions; and

WHEREAS, on the 29th day of November 2016, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2060 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying northwest of Hudson Road (Road 387) 2,100 feet south of Lynch Road (Road 387A) and being more particularly described as follows:

BEGINNING at a concrete monument on the northwesterly right-of-way of Hudson Road (Road 387) a corner for these lands and lands, now or formerly, of Stephen L. and Shelia D. Long; thence South 25°20'27" West 371.17 feet along the northwesterly right-of-way of Hudson Road to a point; thence North 56°28'01" West 941.46 feet along lands of Robert T. Gray, Jr. and Lisa L. Gray to a point in the centerline of a ditch; thence easterly

357.58 feet along the centerline of said ditch to a point at the centerline of a crossing ditch; thence southeasterly 794.90 feet along the centerline of the ditch and previously referenced lands of Stephen L. and Shelia D. Long to the point and place of beginning, and containing 6.983 acres, more or less, per survey, provided by True North Land Surveying.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

This Ordinance was adopted subject to the following conditions:

- A. All maintenance shall be performed inside of buildings, with appropriate disposal of fluids and other waste materials.**
- B. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- C. Any dumpsters on the site shall be screened from view of neighboring properties or roadways.**
- D. The hours of operation shall be Monday through Saturday from 6:00 a.m. to 8:00 p.m. and Sunday from 9:00 a.m. to 5:00 p.m. During snow events, these hours may be extended.**
- E. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2477 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 29TH DAY OF NOVEMBER 2016.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Fact:

- A. This is the application of Shelby Trucking and Construction Company, Inc. to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a heavy equipment storage, trucking and construction business to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 6.983 acres, more or less. The property is located at the northwest of Hudson Rd. (Rd. 387) 2,100 feet south of Lynch Rd. (Rd. 387A) (911 Address: 37268 Hudson Road, Selbyville) (Tax Map I.D. 533-17.00-160.00).**
- B. Council found that DelDOT commented that a Traffic Impact Study was not required, and that the current Level of Service “B” of Hudson Road will not change as a result of this application.**

- C. Based on testimony before the Planning & Zoning Commission and the Public Hearing before the Sussex County Council, Council found that Lisa Gray, owner/operator of Shelby Trucking and Construction Company, Inc., was present with Jeff Clark, Landscape Architect with Land Tech Land Planning, and they stated that they have applied for the Conditional Use to allow for the continuation of the business activities that have existed on the site for almost 50 years; that the survey/site plan included in the Exhibit Booklet depicts the many buildings and driveways on the site; that they submitted the application for a PLUS review through the Office of State Planning, and found that the site is located in an Investment Level 2 Area; that an on-site septic system exists on the site; that the site is very neat and tidy; that they are not proposing any major changes in the uses on the site; that the site and business has been handed down from the Applicant's father who operated Hitchens Brothers Trucking and Construction, Inc.; that the business is currently only part-time and being operated by family members; and that they do not want to lose their business status so that they can get more involved with the business once they retire from their current positions.**
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 6) and Conditions (7A through 7E), as amended, Council found that:**
- 1. This allows the continuation of a use that has existed on this property for approximately 50 years. This Conditional Use will simply confirm the legal existence of the businesses on this site.**
 - 2. The use, which has existed for decades, will not adversely affect neighboring properties or roadways.**
 - 3. The use will be primarily contained within the existing buildings and parking and storage areas on the site.**
 - 4. The site is in a Town Center Area, which is an appropriate location for a use such as this.**
 - 5. While there was some concern expressed about hours of operation, the record reflects that this use has existed at various hours for many years. The conditions will also address the hours of operation.**
 - 6. No parties appeared in opposition to this Conditional Use.**
 - 7. Based on the record created before the Sussex County Council, the Conditional Use is approved subject to five (5) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**